

109TH CONGRESS  
1ST SESSION

# S. 730

To amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 6, 2005

Mr. LEAHY (for himself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Mercury Emission Act  
3 of 2005”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5       (a) FINDINGS.—Congress finds that—

6           (1) on the basis of available scientific and med-  
7 ical evidence, exposure to mercury and mercury com-  
8 pounds (collectively referred to in this Act as “mer-  
9 cury”) is of concern to human health and the envi-  
10 ronment;

11           (2) according to the report entitled “Toxi-  
12 cological Effects of Methylmercury” and submitted  
13 to Congress by the National Academy of Sciences in  
14 2000, and other scientific and medical evidence,  
15 pregnant women and their fetuses, women of child-  
16 bearing age, children, and individuals who subsist  
17 primarily on fish are most at risk for mercury-re-  
18 lated health impacts such as neurotoxicity;

19           (3) although exposure to mercury occurs most  
20 frequently through consumption of mercury-contami-  
21 nated fish, exposure can also occur through—

22           (A) ingestion of drinking water, and food  
23 sources other than fish, that are contaminated  
24 with methyl mercury;

25           (B) dermal uptake through soil and water;  
26 and

1 (C) inhalation of contaminated air;

2 (4) on the basis of the report entitled “Mercury  
3 Study Report to Congress” and submitted by the  
4 Environmental Protection Agency under section  
5 112(n)(1)(B) of the Clean Air Act (42 U.S.C.  
6 7412(n)(1)(B)), the major sources of mercury emis-  
7 sions in the United States are, in descending order  
8 of volume of emissions—

9 (A) fossil fuel-fired electric utility steam  
10 generating units;

11 (B) solid waste incineration units;

12 (C) coal- and oil-fired commercial and in-  
13 dustrial boiler units;

14 (D) medical waste incinerators;

15 (E) hazardous waste combustors;

16 (F) chlor-alkali plants; and

17 (G) Portland cement plants;

18 (5)(A) the Environmental Protection Agency re-  
19 port described in paragraph (4), in conjunction with  
20 available scientific knowledge, supports a plausible  
21 link between mercury emissions from anthropogenic  
22 combustion and industrial sources and mercury con-  
23 centrations in air, soil, water, and sediments;

24 (B) the Environmental Protection Agency has  
25 concluded that the geographical areas that have the

1 highest annual rate of deposition of mercury in all  
2 forms are—

3 (i) the southern Great Lakes and Ohio  
4 River Valley;

5 (ii) the Northeast and southern New Eng-  
6 land; and

7 (iii) scattered areas in the South, with the  
8 most elevated deposition occurring in the Miami  
9 and Tampa areas and 2 areas in northeast  
10 Texas; and

11 (C) analysis conducted before the date of the  
12 Environmental Protection Agency report dem-  
13 onstrates that mercury is being deposited into the  
14 waters of Canada;

15 (6)(A) the Environmental Protection Agency re-  
16 port described in paragraph (4) supports a plausible  
17 link between mercury emissions from anthropogenic  
18 combustion and industrial sources and concentra-  
19 tions of methyl mercury in freshwater fish;

20 (B) in 2003, 45 States issued health advisories  
21 that warned the public about consuming mercury-  
22 tainted fish, as compared to 27 States that issued  
23 such advisories in 1993;

1 (C) the total number of mercury advisories na-  
2 tionwide increased from 899 in 1993 to 2,362 in  
3 2003, an increase of 162 percent; and

4 (D) the United States and Canada have agreed  
5 on a goal of virtual elimination of mercury from the  
6 transboundary waters of the 2 countries;

7 (7) the presence of mercury in consumer prod-  
8 ucts is of concern in light of the health consequences  
9 associated with exposure to mercury;

10 (8) the presence of mercury in certain batteries  
11 and fluorescent light bulbs is of special concern, par-  
12 ticularly in light of the substantial quantities of used  
13 batteries and fluorescent light bulbs that are dis-  
14 carded annually in the solid waste stream and the  
15 potential for environmental and health consequences  
16 associated with land disposal, composting, or incin-  
17 eration of the batteries and light bulbs;

18 (9) a comprehensive study of the use of mer-  
19 cury by the Department of Defense would signifi-  
20 cantly further the goal of reducing mercury pollu-  
21 tion;

22 (10) because excess stockpiled mercury, if sold  
23 domestically or internationally for commercial or in-  
24 dustrial use, has the potential to threaten the envi-

1        ronment and public health, there is a need for meth-  
 2        ods to retire excess mercury permanently;

3            (11) accurate, long-term, nationwide monitoring  
 4        of atmospheric mercury deposition is essential to—

5            (A) determining current deposition trends;

6            (B) evaluating the local and regional trans-  
 7        port of mercury emissions; and

8            (C) assessing the impact of emission reduc-  
 9        tions; and

10        (12)(A) a recent reanalysis of data originally  
 11        reported in a January 2003 report by the Centers  
 12        for Disease Control and Prevention increased the es-  
 13        timate, from nearly 8 percent to nearly 16 percent,  
 14        of the fraction of women of childbearing age who  
 15        have mercury levels above the safe health threshold  
 16        established by the Environmental Protection Agency;  
 17        and

18        (B) the statistic described in subparagraph (A)  
 19        means that—

20            (i) nearly 4,900,000 women of childbearing  
 21        age have elevated levels of mercury from eating  
 22        contaminated fish; and

23            (ii) approximately 630,000 newborns per  
 24        year are at risk of neurological effects from

1           being exposed to elevated mercury levels before  
2           birth.

3           (b) PURPOSES.—The purposes of this Act are—

4           (1) to greatly reduce the quantity of mercury  
5           entering the environment by controlling air emis-  
6           sions of mercury from—

7                   (A) fossil fuel-fired electric utility steam  
8                   generating units;

9                   (B) coal- and oil-fired commercial and in-  
10                  dustrial boiler units;

11                  (C) solid waste incineration units;

12                  (D) medical waste incinerators;

13                  (E) hazardous waste combustors;

14                  (F) chlor-alkali plants; and

15                  (G) Portland cement plants;

16           (2) to reduce the quantity of mercury entering  
17           solid waste landfills, incinerators, and composting  
18           facilities by promoting recycling or proper disposal  
19           of—

20                   (A) used batteries;

21                   (B) fluorescent light bulbs; and

22                   (C) other products containing mercury;

23           (3) to increase the understanding of the volume  
24           and sources of mercury emissions throughout North  
25           America;

1           (4) to promote efficient and cost-effective meth-  
2       ods of controlling mercury emissions;

3           (5) to promote permanent, safe, and stable dis-  
4       posal of mercury recovered through—

5                   (A) coal cleaning;

6                   (B) flue gas control systems; and

7                   (C) other methods of mercury pollution  
8       control;

9           (6) to reduce the use of mercury in cases in  
10      which technologically and economically feasible alter-  
11      natives are available;

12          (7) to educate the public concerning the collec-  
13      tion, recycling, and proper disposal of mercury-con-  
14      taining products;

15          (8) to increase public knowledge of the sources  
16      of mercury exposure and the threats to public health  
17      associated with mercury exposure, particularly the  
18      threat to the health of pregnant women and their  
19      fetuses, women of childbearing age, children, and in-  
20      dividuals who subsist primarily on fish;

21          (9) to significantly decrease the threat to  
22      human health and the environment posed by mer-  
23      cury; and

24          (10) to ensure that the health of sensitive popu-  
25      lations, whether in the United States, Canada, or

1 Mexico, is protected, with an adequate margin of  
2 safety, against adverse health effects caused by mer-  
3 cury.

4 **SEC. 3. MERCURY EMISSION LIMITATIONS.**

5 (a) IN GENERAL.—

6 (1) REGULATIONS.—

7 (A) IN GENERAL.—Not later than 1 year  
8 after the date of enactment of this Act, the Ad-  
9 ministrator of the Environmental Protection  
10 Agency shall promulgate regulations to estab-  
11 lish emission limitations for mercury emissions  
12 by coal-fired electricity generating facilities.

13 (B) NO EXCEEDANCE OF NATIONAL LIM-  
14 ITATION.—The regulations shall ensure that the  
15 national limitation for mercury emissions from  
16 each coal-fired electricity generating facility es-  
17 tablished under subsection (c) is not exceeded.

18 (C) EMISSION LIMITATIONS FOR 2009 AND  
19 THEREAFTER.—In carrying out subparagraph  
20 (A), for 2009 and each year thereafter, the Ad-  
21 ministrator shall not—

22 (i) subject to subsections (e) and (f)  
23 of section 112 of the Clean Air Act (42  
24 U.S.C. 7412), establish limitations on  
25 emissions of mercury from coal-fired elec-

1           tricity generating facilities that allow emis-  
 2           sions in excess of 2.48 grams of mercury  
 3           per 1000 megawatt hours; or

4           (ii) differentiate between facilities that  
 5           burn different types of coal.

6           (2) ANNUAL REVIEW AND DETERMINATION.—

7           (A) IN GENERAL.—Not later than April 1  
 8           of each year, the Administrator shall—

9           (i) review the total mercury emissions  
 10           during the 2 previous years from electricity  
 11           generating facilities located in all States;  
 12           and

13           (ii) determine whether, during the 2  
 14           previous years, the total mercury emissions  
 15           from facilities described in clause (i) ex-  
 16           ceeded the national limitation for mercury  
 17           emissions established under subsection  
 18           (c)(1)(D).

19           (B) EXCEEDANCE OF NATIONAL LIMITA-  
 20           TION.—If the Administrator determines under  
 21           subparagraph (A)(ii) that, during the 2 pre-  
 22           vious years, the total mercury emissions from  
 23           facilities described in subparagraph (A)(i) ex-  
 24           ceeded the national limitation for mercury emis-  
 25           sions established under subsection (c)(1)(D),

the Administrator shall, not later than 1 year after the date of the determination, revise the regulations promulgated under paragraph (1) to reduce the emission rates specified in the regulations as necessary to ensure that the national limitation for mercury emissions is not exceeded in any future year.

(3) COMPLIANCE FLEXIBILITY.—

(A) IN GENERAL.—Each coal-fired electricity generating facility subject to an emission limitation under this section shall be in compliance with that limitation if that limitation is greater than or equal to the quotient obtained by dividing—

(i) the total mercury emissions of the coal-fired electricity generating facility during each 30-day period; by

(ii) the quantity of electricity generated by the coal-fired electricity generating facility during that period.

(B) MORE THAN 1 UNIT AT A FACILITY.—

In any case in which more than 1 coal-fired electricity generating unit at a coal-fired electricity generating facility subject to an emission limitation under this section was operated in

1 1999 under common ownership or control, com-  
2 pliance with the emission limitation may be de-  
3 termined by averaging the emission rates of all  
4 coal-fired electricity generating units at the  
5 electricity generating facility during each 30-  
6 day period.

7 (b) PREVENTION OF RE-RELEASE.—

8 (1) REGULATIONS.—Not later than July 1,  
9 2006, the Administrator shall promulgate regula-  
10 tions to ensure that any mercury captured or recov-  
11 ered by emission controls installed at an electricity  
12 generating facility is not re-released into the envi-  
13 ronment.

14 (2) REQUIRED ELEMENTS.—The regulations  
15 shall require—

16 (A) daily covers on all active waste disposal  
17 units, and permanent covers on all inactive  
18 waste disposal units, to prevent the release of  
19 mercury into the air;

20 (B) monitoring of groundwater to ensure  
21 that mercury or mercury compounds do not mi-  
22 grate from the waste disposal unit;

23 (C) waste disposal siting requirements and  
24 cleanup requirements to protect groundwater  
25 and surface water resources;

1 (D) elimination of agricultural application  
2 of coal combustion wastes; and

3 (E) appropriate limitations on mercury  
4 emissions from sources or processes that re-  
5 process or use coal combustion waste, including  
6 manufacturers of wallboard and cement.

7 (c) EMISSION LIMITATIONS.—

8 (1) IN GENERAL.—Subject to paragraphs (2)  
9 and (3), the Administrator shall promulgate regula-  
10 tions to ensure that, during 2010 and each year  
11 thereafter, the total annual emissions of covered pol-  
12 lutants from all electricity generating facilities lo-  
13 cated in all States does not exceed—

14 (A) in the case of sulfur dioxide—

15 (i) 275,000 tons in the western re-  
16 gion; or

17 (ii) 1,975,000 tons in the nonwestern  
18 region;

19 (B) in the case of nitrogen oxides,  
20 1,510,000 tons;

21 (C) in the case of carbon dioxide,  
22 2,050,000,000 tons; or

23 (D) in the case of mercury, 5 tons.

24 (2) EXCESS EMISSIONS BASED ON UNUSED AL-  
25 LOWANCES.—The regulations promulgated under

1 paragraph (1) shall authorize emissions of covered  
 2 pollutants in excess of the national emission limita-  
 3 tions established under that subsection for a year to  
 4 the extent that the number of tons of the excess  
 5 emissions is less than or equal to the number of  
 6 emission allowances that are—

7 (A) used in the year; but

8 (B) allocated for any previous year under  
 9 Federal law.

10 (3) REDUCTIONS.—For 2010 and each year  
 11 thereafter, the quantity of emissions specified for  
 12 each covered pollutant in paragraph (1) shall be re-  
 13 duced by the sum of—

14 (A) the number of tons of the covered pol-  
 15 lutant that were emitted by small electricity  
 16 generating facilities in the second preceding  
 17 year; and

18 (B) any number of tons of reductions in  
 19 emissions of the covered pollutant required  
 20 under Federal law.

21 **SEC. 4. MERCURY EMISSION STANDARDS FOR COAL- AND**  
 22 **OIL-FIRED COMMERCIAL AND INDUSTRIAL**  
 23 **BOILER UNITS.**

24 Section 112 of the Clean Air Act is amended by in-  
 25 serting after subsection (s) the following:

1       “(t) MERCURY EMISSION STANDARDS FOR COAL-  
2 AND OIL-FIRED COMMERCIAL AND INDUSTRIAL BOILER  
3 UNITS.—

4               “(1) IN GENERAL.—

5                       “(A) REGULATIONS.—Not later than 180  
6 days after the date of enactment of this sub-  
7 paragraph, the Administrator shall promulgate  
8 regulations to establish standards for the emis-  
9 sion of mercury and mercury compounds (col-  
10 lectively referred to in this subsection as ‘mer-  
11 cury’) applicable to existing and new coal- and  
12 oil-fired commercial and industrial boiler units  
13 that have a maximum design heat input capac-  
14 ity of 10 mmBtu per hour or greater.

15                       “(B) PERMIT REQUIREMENT.—Not later  
16 than 2 years after the date of enactment of this  
17 subparagraph, each coal- or oil-fired commercial  
18 or industrial boiler unit shall have an enforce-  
19 able permit issued under title V that complies  
20 with this subsection.

21                       “(C) PROCEDURES AND SCHEDULES FOR  
22 COMPLIANCE WITH STANDARDS.—Each coal- or  
23 oil-fired commercial or industrial boiler unit  
24 shall achieve compliance with the mercury emis-  
25 sion standards established under subparagraph

1 (A) in accordance with the procedures and  
 2 schedules established under subsection (i).

3 “(2) STANDARDS AND METHODS.—

4 “(A) EMISSION STANDARD.—Subject to  
 5 subparagraphs (B) and (C), the emission stand-  
 6 ards established under paragraph (1)(A) shall  
 7 require that each coal- or oil-fired commercial  
 8 or industrial boiler unit achieve the maximum  
 9 degree of reduction in emissions of mercury, as  
 10 determined under subsection (d).

11 “(B) MINIMUM REQUIRED EMISSION RE-  
 12 Duction.—The emission standards established  
 13 under paragraph (1)(A) shall reduce the total  
 14 emissions of mercury from coal- and oil-fired  
 15 commercial and industrial boiler units in the  
 16 United States by not less than 90 percent from  
 17 1999 levels.

18 “(C) EMISSION TRADING WITHIN A FACIL-  
 19 ITY.—

20 “(i) IN GENERAL.—For the purpose  
 21 of this subsection, taking into consider-  
 22 ation the cost of achieving the emission re-  
 23 duction, the Administrator may allow emis-  
 24 sion trading among the coal- and oil-fired  
 25 commercial and industrial boiler units con-

1           tained in a facility at a single site if the  
 2           aggregate emissions of mercury from all  
 3           such units at the facility are less than or  
 4           equal to the aggregate emissions that  
 5           would result if all such units complied with  
 6           the emission standards established under  
 7           paragraph (1)(A).

8           “(ii) PROHIBITION ON TRADING  
 9           AMONG SITES.—The Administrator shall  
 10          not allow emission trading among coal-  
 11          and oil-fired commercial and industrial  
 12          boiler units at different sites.

13          “(iii) UNDERLYING DATA.—In car-  
 14          rying out clause (i), the Administrator  
 15          shall use mercury emission data obtained  
 16          under paragraph (3)(B).

17          “(D) CONTROL METHODS.—For the pur-  
 18          pose of achieving compliance with the emission  
 19          standards established under paragraph (1)(A),  
 20          the Administrator shall authorize methods of  
 21          control of mercury emissions, including meas-  
 22          ures that—

23               “(i) reduce the volume of, or eliminate  
 24               emissions of, mercury through a process

change, substitution of material or fuel, or  
other method;

“(ii) enclose systems or processes to  
eliminate mercury emissions;

“(iii) collect, capture, or treat mer-  
cury emissions when released from a proc-  
ess, stack, storage, or fugitive emission  
point;

“(iv) consist of design, equipment,  
work practice, or operational standards  
(including requirements for operator train-  
ing or certification) in accordance with  
subsection (h); or

“(v) consist of a combination of the  
measures described in clauses (i) through  
(iv).

“(3) PERMIT REQUIREMENTS AND CONDI-  
TIONS.—

“(A) IN GENERAL.—Each permit issued in  
accordance with paragraph (1)(B) shall in-  
clude—

“(i) enforceable mercury emission  
standards;

“(ii) a schedule of compliance;

1 “(iii) a requirement that the permittee  
 2 submit to the permitting authority, not less  
 3 often than every 90 days, the results of  
 4 any required monitoring; and

5 “(iv) such other conditions as the Ad-  
 6 ministrator determines are necessary to en-  
 7 sure compliance with this subsection and  
 8 each applicable implementation plan under  
 9 section 110.

10 “(B) MONITORING AND ANALYSIS.—

11 “(i) PROCEDURES AND METHODS.—  
 12 The regulations promulgated by the Ad-  
 13 ministrator under paragraph (1)(A) shall  
 14 prescribe procedures and methods for—

15 “(I) monitoring and analysis for  
 16 mercury; and

17 “(II) determining compliance  
 18 with this subsection.

19 “(ii) INFORMATION.—Application of  
 20 the procedures and methods shall result in  
 21 reliable and timely information for deter-  
 22 mining compliance.

23 “(iii) OTHER REQUIREMENTS.—The  
 24 requirements for monitoring and analysis  
 25 under this subparagraph shall include, to

the extent necessary to provide accurate and reliable data for determining emissions of mercury from each coal- or oil-fired commercial or industrial boiler unit—

“(I) requirements that result in a representative determination of mercury in ash and sludge; and

“(II) a combination of requirements for continuous or other reliable and representative direct emission monitoring methods that results in a representative determination of mercury in fuel as received by each coal- or oil-fired commercial or industrial boiler unit.

“(iv) EFFECT ON OTHER LAW.—Nothing in this subsection affects any continuous emission monitoring requirement of title IV or any other provision of this Act.

“(C) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.—

“(i) IN GENERAL.—Each permit issued in accordance with paragraph (1)(B) shall specify inspection, entry, mon-

itoring, compliance certification, and reporting requirements to ensure compliance with the terms and conditions or the permit.

“(ii) CONFORMITY WITH OTHER REGULATIONS.—The monitoring and reporting requirements shall conform to each applicable regulation under subparagraph (B).

“(iii) SIGNATURE.—A report required under clause (i) or subparagraph (B)(iii) shall be signed by a responsible official of the coal- or oil-fired commercial or industrial boiler unit, who shall certify the accuracy of the report.

“(4) DISPOSAL OF MERCURY CAPTURED THROUGH EMISSION CONTROLS.—

“(A) IN GENERAL.—

“(i) CAPTURED OR RECOVERED MERCURY.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury that is captured or recovered through the use of an emission control, coal cleaning, or another method is disposed of in a manner that ensures that—

1                   “(I) the hazards from mercury  
2                   are not transferred from 1 environ-  
3                   mental medium to another; and

4                   “(II) there is no release of mer-  
5                   cury into the environment (as the  
6                   terms ‘release’ and ‘environment’ are  
7                   defined in section 101 of the Com-  
8                   prehensive Environmental Response,  
9                   Compensation, and Liability Act of  
10                  1980 (42 U.S.C. 9601)).

11                  “(ii) MERCURY-CONTAINING SLUDGES  
12                  AND WASTES.—The regulations promul-  
13                  gated by the Administrator under para-  
14                  graph (1)(A) shall ensure that mercury-  
15                  containing sludges and wastes are handled  
16                  and disposed of in accordance with all ap-  
17                  plicable Federal and State laws (including  
18                  regulations).

19                  “(B) RESEARCH PROGRAM.—To promote  
20                  permanent and cost-effective disposal of mer-  
21                  cury from coal- and oil-fired commercial and in-  
22                  dustrial boiler units, the Administrator shall es-  
23                  tablish a program of long-term research to de-  
24                  velop and disseminate information on methods  
25                  and techniques such as separating, solidifying,

1 recycling, and encapsulating mercury-containing  
 2 waste so that mercury does not volatilize, mi-  
 3 grate to ground water or surface water, or con-  
 4 taminate the soil.

5 “(5) OTHER REQUIREMENTS.—An emission  
 6 standard or other requirement promulgated under  
 7 this subsection does not diminish or replace—

8 “(A) any requirement of a more stringent  
 9 emission limitation or other applicable require-  
 10 ment established under this Act; or

11 “(B) a standard issued under State law.

12 “(6) PUBLIC REPORTING OF DATA PERTAINING  
 13 TO EMISSIONS OF MERCURY.—

14 “(A) IN GENERAL.—The Administrator  
 15 shall annually make available to the public,  
 16 through 1 or more published reports and 1 or  
 17 more forms of electronic media, facility-specific  
 18 mercury emission data for each coal- or oil-fired  
 19 commercial or industrial boiler unit.

20 “(B) SOURCE OF DATA.—The emission  
 21 data shall be taken from the monitoring and  
 22 analysis reports submitted under paragraph  
 23 (3)(C).”.

1 **SEC. 5. REDUCTION OF MERCURY EMISSIONS FROM SOLID**  
2 **WASTE INCINERATION UNITS.**

3 (a) SEPARATION OF MERCURY-CONTAINING  
4 ITEMS.—Section 3002 of the Solid Waste Disposal Act  
5 (42 U.S.C. 6922) is amended by adding at the end the  
6 following:

7 “(c) SEPARATION OF MERCURY-CONTAINING  
8 ITEMS.—

9 “(1) PUBLICATION OF LIST.—

10 “(A) IN GENERAL.—Not later than 180  
11 days after the date of enactment of this sub-  
12 section, the Administrator shall publish a list of  
13 mercury-containing items that shall be required  
14 to be separated and removed from a waste  
15 stream that feeds a solid waste management fa-  
16 cility.

17 “(B) REQUIRED ITEMS.—The list shall in-  
18 clude mercury-containing items such as fluores-  
19 cent light bulbs and tubes, batteries, pharma-  
20 ceuticals, laboratory chemicals and reagents,  
21 electrical devices such as thermostats, relays,  
22 and switches, and medical and scientific instru-  
23 ments.

24 “(C) LABELING REQUIREMENT.—

25 “(i) IN GENERAL.—Except as pro-  
26 vided in clause (ii), to facilitate the process

1 of separating and removing items listed  
2 under subparagraph (A), each manufac-  
3 turer of a listed item shall ensure that  
4 each item is clearly labeled to indicate that  
5 the product contains mercury.

6 “(ii) BUTTON CELL BATTERIES.—In  
7 the case of button cell batteries for which,  
8 due to size constraints, labeling described  
9 in clause (i) is not practicable, the pack-  
10 aging shall indicate that the product con-  
11 tains mercury.

12 “(2) PLAN.—

13 “(A) REQUIREMENT.—Not later than 1  
14 year after the date of enactment of this sub-  
15 section, each person that transfers, directly or  
16 through a contractor, solid waste that may con-  
17 tain a mercury-containing item listed under  
18 paragraph (1) to a solid waste management fa-  
19 cility shall submit for review and approval by  
20 the Administrator (or, in the case of a solid  
21 waste management facility located in a State  
22 that has a State hazardous waste program au-  
23 thorized under section 3006, the State) a plan  
24 for—

1 “(i) separating and removing mer-  
 2 cury-containing items listed under para-  
 3 graph (1) from the waste streams that feed  
 4 any solid waste management facility;

5 “(ii) subject to the other requirements  
 6 of this subtitle, transferring the separated  
 7 waste to a recycling facility or a treatment,  
 8 storage, or disposal facility that holds a  
 9 permit under this subtitle;

10 “(iii) monitoring and reporting on  
 11 compliance with the plan; and

12 “(iv) achieving full compliance with  
 13 the plan not later than 18 months after  
 14 the date of approval of the plan in accord-  
 15 ance with subparagraph (B).

16 “(B) PLAN APPROVAL.—

17 “(i) DEADLINE.—Not later than 180  
 18 days after the date of receipt of the plan,  
 19 the Administrator (or the State) shall de-  
 20 termine whether to approve or disapprove  
 21 a plan submitted under subparagraph (A).

22 “(ii) PREFERENCE.—In determining  
 23 whether to approve a plan, the Adminis-  
 24 trator (or the State) shall give preference

1 to recycling or stabilization of mercury-  
2 containing items over disposal of the items.

3 “(C) AMENDED PLAN.—

4 “(i) SUBMISSION.—If the Adminis-  
5 trator (or the State) disapproves a plan,  
6 the person that submitted the plan may  
7 submit an amended plan not later than 90  
8 days after the date of disapproval.

9 “(ii) APPROVAL.—Not later than 30  
10 days after the date of receipt of the  
11 amended plan, the Administrator (or the  
12 State) shall approve or disapprove the  
13 plan.

14 “(D) PLAN BY ADMINISTRATOR (OR  
15 STATE).—

16 “(i) IN GENERAL.—If an amended  
17 plan is not submitted to the Administrator  
18 (or the State) within 90 days after the  
19 date of disapproval, or if an amended plan  
20 has been submitted and subsequently dis-  
21 approved, the Administrator (or the State)  
22 shall issue a determination that it is nec-  
23 essary for the Administrator (or the State)  
24 to promulgate a plan for the person.

1 “(ii) PLAN.—Not later than 180 days  
 2 after issuing the determination, the Ad-  
 3 ministrator (or the State) shall develop,  
 4 publish in the Federal Register (or submit  
 5 to the Administrator for publication in the  
 6 Federal Register), implement, and enforce  
 7 a plan that—

8 “(I) meets the criteria specified  
 9 in subparagraph (A); and

10 “(II) ensures that full compliance  
 11 with the plan will be achieved not  
 12 later than 18 months after the date of  
 13 publication of the plan.

14 “(E) ENFORCEABILITY.—On approval by  
 15 the Administrator (or the State) of a plan sub-  
 16 mitted under subparagraph (A), or on publica-  
 17 tion of a plan developed by the Administrator  
 18 (or the State) under subparagraph (D), the  
 19 plan shall be enforceable under this Act.”.

20 (b) SOLID WASTE INCINERATION UNIT MERCURY  
 21 EMISSION MONITORING AND ANALYSIS.—Section 129 of  
 22 the Clean Air Act (42 U.S.C. 7429) is amended by strik-  
 23 ing subsection (e) and inserting the following:

24 “(e) PERMITS.—

1           “(1) IN GENERAL.—Beginning on the date that  
 2           is the later of the dates described in paragraph (2),  
 3           each unit in the category shall operate pursuant to  
 4           a permit issued under this subsection and title V.

5           “(2) INITIAL DATES.—The dates referred to in  
 6           paragraph (1) are—

7                   “(A) the date that is 36 months after the  
 8                   promulgation of a performance standard under  
 9                   subsection (a) and section 111 applicable to a  
 10                  category of solid waste incineration units; and

11                   “(B) the effective date of a permit pro-  
 12                  gram under title V in the State in which the  
 13                  unit is located.

14           “(3) PERIOD OF ISSUANCE.—

15                   “(A) IN GENERAL.—Notwithstanding any  
 16                  other provision of this Act, a permit for a solid  
 17                  waste incineration unit combusting municipal  
 18                  waste issued under this Act—

19                           “(i) shall be issued for a period of not  
 20                           greater than 12 years; and

21                           “(ii) shall be reviewed every 5 years  
 22                           after the date of issuance or reissuance.

23           “(B) CONTINUATION.—

24                   “(i) IN GENERAL.—Unless the Admin-  
 25                  istrator or the State determines that a unit

1 is not in compliance with all standards and  
 2 conditions contained in a permit, the per-  
 3 mit described in subparagraph (A) shall  
 4 continue in effect after the date of issuance  
 5 until the date of termination of the permit.

6 “(ii) DETERMINATION.—The deter-  
 7 mination of the Administrator or the State  
 8 under clause (i) shall be made—

9 “(I) at regular intervals, not to  
 10 exceed 5 years, during the term of the  
 11 permit; and

12 “(II) after an opportunity for  
 13 public comment and a public hearing.

14 “(4) RENEWAL.—A permit described in para-  
 15 graph (1) may be renewed in accordance with title  
 16 V.

17 “(5) LACK OF AUTHORITY TO ISSUE.—No per-  
 18 mit for a solid waste incineration unit may be issued  
 19 under this Act by an agency, instrumentality, or per-  
 20 son that is responsible (in whole or in part) for the  
 21 design and construction or operation of the unit.

22 “(6) REQUIREMENTS.—Notwithstanding any  
 23 other provision of this subsection, if the Adminis-  
 24 trator or a State determines, at the discretion of the  
 25 Administrator or State, that emissions in the ab-

1       sence of limitations or other measures may reason-  
 2       ably be anticipated to endanger public health or the  
 3       environment, the Administrator or the State shall  
 4       require the owner or operator of a unit—

5               “(A) to comply with emission limitations;

6               or

7               “(B) to implement any other measure the  
 8       Administrator or the State determines is prac-  
 9       ticable.

10       “(7) SOLID WASTE INCINERATION UNIT MER-  
 11       CURY EMISSION MONITORING AND ANALYSIS.—

12               “(A) PROCEDURES AND METHODS.—

13               “(i) IN GENERAL.—Not later than  
 14       180 days after the date of enactment of  
 15       this paragraph, the Administrator shall  
 16       promulgate regulations prescribing proce-  
 17       dures and methods for—

18               “(I) monitoring and analysis for  
 19       mercury emissions from solid waste  
 20       combustion flue gases; and

21               “(II) determining compliance  
 22       with this paragraph.

23               “(ii) INFORMATION.—Application of  
 24       the procedures and methods shall result in

1 reliable and timely information for deter-  
2 mining compliance.

3 “(B) PERMIT REQUIREMENTS.—

4 “(i) IN GENERAL.—A permit de-  
5 scribed in paragraph (1) shall specify in-  
6 spection, entry, monitoring, compliance  
7 certification, and reporting requirements  
8 with respect to mercury to ensure compli-  
9 ance with the terms and conditions of the  
10 permit, including a requirement that the  
11 permittee submit to the permitting author-  
12 ity, not less often than every 90 days, the  
13 results of any required monitoring.

14 “(ii) SIGNATURE.—A report required  
15 under clause (i) shall be signed by a re-  
16 sponsible official of the solid waste inciner-  
17 ation unit or by a municipal official, who  
18 shall certify the accuracy of the report.

19 “(C) ESTABLISHMENT OF MAXIMUM MER-  
20 CURY EMISSION RATE.—

21 “(i) DETERMINATION BY THE ADMIN-  
22 ISTRATOR.—Not later than 36 months, 39  
23 months, and 42 months after the date of  
24 enactment of this subparagraph, based on  
25 the reports required under subparagraph

(B)(i), the Administrator (or the State) shall determine whether a solid waste incinerator unit has achieved and is continuously maintaining a mercury emission rate of not more than 0.080 milligrams per dry standard cubic meter.

“(ii) REQUIREMENT OF INSTALLATION OF CONTROLS.—If the mercury emission rate specified in clause (i) is not achieved and maintained over the period covered by the reports required under subparagraph (B)(i), or over any 2 out of 3 reporting periods thereafter, the Administrator shall require the solid waste incineration unit—

“(I) to install control equipment;

and

“(II) to implement techniques that will result in a mercury emission rate by the unit of not more than 0.060 milligrams per dry standard cubic meter within 3 years.

“(iii) ENFORCEABILITY.—The requirements of this subparagraph shall be an enforceable modification to any existing

1 or new permit described in paragraph (1)  
2 for the solid waste incineration unit.

3 “(D) OTHER REQUIREMENTS.—An emis-  
4 sion standard or other requirement promulgated  
5 under this subsection does not diminish or re-  
6 place—

7 “(i) any requirement of a more strin-  
8 gent emission limitation or other applicable  
9 requirement established under this Act; or

10 “(ii) a standard issued under State  
11 law.

12 “(E) PUBLIC REPORTING OF DATA PER-  
13 TAINING TO EMISSIONS OF MERCURY.—

14 “(i) IN GENERAL.—The Administrator  
15 shall annually make available to the public,  
16 through 1 or more published reports and 1  
17 or more forms of electronic media, facility-  
18 specific mercury emission data for each  
19 solid waste incineration unit.

20 “(ii) SOURCE OF DATA.—The emis-  
21 sion data shall be taken from the moni-  
22 toring and analysis reports submitted  
23 under subparagraph (B).”.

1 (c) PHASEOUT OF MERCURY IN PRODUCTS.—Section  
 2 112 of the Clean Air Act (as amended by section 4) is  
 3 amended by inserting after subsection (t) the following:

4 “(u) PHASEOUT OF MERCURY IN PRODUCTS.—

5 “(1) DEFINITION OF MANUFACTURER.—In this  
 6 subsection, the term ‘manufacturer’ includes an im-  
 7 porter for resale.

8 “(2) PROHIBITION ON SALE.—Beginning 3  
 9 years after the date of enactment of this subsection,  
 10 a manufacturer shall not sell any mercury-con-  
 11 taining product (whether manufactured domestically,  
 12 imported, or manufactured for export) unless the  
 13 manufacturer has applied for and has been granted  
 14 by the Administrator an exemption from the prohibi-  
 15 tion on the sale.

16 “(3) PROCEDURES FOR MAKING EXEMPTION  
 17 APPLICATION DETERMINATIONS.—Before making a  
 18 determination on an application for exemption from  
 19 the prohibition under paragraph (2), the Adminis-  
 20 trator shall—

21 “(A) publish notice of the application in  
 22 the Federal Register;

23 “(B) provide a public comment period of  
 24 60 days; and

1           “(C) conduct a hearing on the record on  
2           the application.

3           “(4) CRITERIA FOR EXEMPTION.—In making a  
4           determination on an application described in para-  
5           graph (3), the Administrator may grant an exemp-  
6           tion from the prohibition under paragraph (2) if—

7                   “(A) the Administrator determines that  
8                   the mercury-containing product is a product the  
9                   use of which is essential;

10                   “(B) the Administrator determines that  
11                   there is no comparable product that does not  
12                   contain mercury and that is available in the  
13                   marketplace at a reasonable cost; and

14                   “(C) through documentation submitted by  
15                   the manufacturer, the Administrator determines  
16                   that the manufacturer has established a pro-  
17                   gram to take back, after use by the consumer,  
18                   all mercury-containing products subject to the  
19                   exemption that are manufactured after the date  
20                   of approval of the application.

21           “(5) TERM OF EXEMPTION.—

22                   “(A) IN GENERAL.—An exemption may be  
23                   granted for a period of not more than 3 years.

1                   “(B) RENEWALS.—Renewal of an exemp-  
 2                   tion shall be carried out in accordance with  
 3                   paragraphs (3) and (4).

4                   “(6) PUBLICATIONS IN THE FEDERAL REG-  
 5                   ISTER.—The Administrator shall publish in the Fed-  
 6                   eral Register—

7                   “(A) a description of each exemption appli-  
 8                   cation approval or denial; and

9                   “(B) on an annual basis, a list of products  
 10                  for which exemptions have been granted under  
 11                  this subsection.”.

12 **SEC. 6. MERCURY EMISSION STANDARDS FOR CHLOR-AL-**  
 13 **KALI PLANTS.**

14                  Section 112 of the Clean Air Act (as amended by sec-  
 15                  tion 5(c)) is amended by inserting after subsection (u) the  
 16                  following:

17                  “(v) MERCURY EMISSION STANDARDS FOR CHLOR-  
 18                  ALKALI PLANTS.—

19                  “(1) IN GENERAL.—

20                  “(A) REGULATIONS.—Not later than 180  
 21                  days after the date of enactment of this sub-  
 22                  paragraph, the Administrator shall promulgate  
 23                  regulations to establish standards for the direct  
 24                  and fugitive emission of mercury and mercury  
 25                  compounds (collectively referred to in this sub-

1 section as ‘mercury’) applicable to existing and  
 2 new chlor-alkali plants that use the mercury cell  
 3 production process (referred to in this sub-  
 4 section as ‘mercury cell chlor-alkali plants’).

5 “(B) PERMIT REQUIREMENT.—Not later  
 6 than 2 years after the date of enactment of this  
 7 subsection, each mercury cell chlor-alkali plant  
 8 shall have an enforceable permit issued under  
 9 title V that complies with this subsection.

10 “(C) PROCEDURES AND SCHEDULES FOR  
 11 COMPLIANCE WITH STANDARDS.—Each mer-  
 12 cury cell chlor-alkali plant shall achieve compli-  
 13 ance with the mercury emission standards es-  
 14 tablished under subparagraph (A) in accordance  
 15 with the procedures and schedules established  
 16 under subsection (i).

17 “(2) STANDARDS AND METHODS.—

18 “(A) MINIMUM REQUIRED EMISSION RE-  
 19DUCTION.—The emission standards established  
 20 under paragraph (1)(A) shall require that each  
 21 mercury cell chlor-alkali plant reduce its annual  
 22 poundage of direct and fugitive mercury emit-  
 23 ted below its mercury emission baseline, as de-  
 24 termined by the Administrator, by not less than  
 25 95 percent.

1           “(B) CONTROL METHODS.—For the pur-  
2           pose of achieving compliance with the emission  
3           standards established under paragraph (1)(A),  
4           the Administrator shall authorize methods of  
5           control of mercury emissions, including meas-  
6           ures that—

7                   “(i) reduce the volume of, or eliminate  
8                   emissions of, mercury through a process  
9                   change, substitution of material, or other  
10                  method;

11                  “(ii) enclose systems or processes to  
12                  eliminate mercury emissions;

13                  “(iii) collect, capture, or treat mer-  
14                  cury emissions when released from a proc-  
15                  ess, stack, storage, or fugitive emission  
16                  point, or through evaporation of a spill;

17                  “(iv) consist of design, equipment,  
18                  manufacturing process, work practice, or  
19                  operational standards (including require-  
20                  ments for operator training or certification  
21                  or spill prevention) in accordance with sub-  
22                  section (h); or

23                  “(v) consist of a combination of the  
24                  measures described in clauses (i) through  
25                  (iv).

1           “(3) PERMIT REQUIREMENTS AND CONDI-  
2           TIONS.—

3           “(A) IN GENERAL.—Each permit issued in  
4           accordance with paragraph (1)(B) shall in-  
5           clude—

6                   “(i) enforceable mercury emission  
7                   standards;

8                   “(ii) a schedule of compliance;

9                   “(iii) a requirement that the permittee  
10                  submit to the permitting authority, not less  
11                  often than every 90 days, the results of  
12                  any required monitoring; and

13                  “(iv) such other conditions as the Ad-  
14                  ministrator determines are necessary to en-  
15                  sure compliance with this subsection and  
16                  each applicable implementation plan under  
17                  section 110.

18           “(B) MONITORING AND ANALYSIS.—

19                   “(i) PROCEDURES AND METHODS.—  
20                  The regulations promulgated by the Ad-  
21                  ministrator under paragraph (1)(A) shall  
22                  prescribe procedures and methods for—

23                           “(I) monitoring and analysis for  
24                           mercury; and

1                   “(II) determining compliance  
2                   with this subsection.

3                   “(ii) INFORMATION.—Application of  
4                   the procedures and methods shall result in  
5                   reliable and timely information for deter-  
6                   mining compliance.

7                   “(iii) EFFECT ON OTHER LAW.—  
8                   Nothing in this subsection affects any con-  
9                   tinuous emission monitoring requirement  
10                  of title IV or any other provision of this  
11                  Act.

12                  “(C) INSPECTION, ENTRY, MONITORING,  
13                  CERTIFICATION, AND REPORTING.—

14                  “(i) IN GENERAL.—Each permit  
15                  issued in accordance with paragraph  
16                  (1)(B) shall specify inspection, entry, mon-  
17                  itoring, compliance certification, and re-  
18                  porting requirements to ensure compliance  
19                  with the terms and conditions of the per-  
20                  mit.

21                  “(ii) CONFORMITY WITH OTHER REG-  
22                  ULATIONS.—The monitoring and reporting  
23                  requirements shall conform to each appli-  
24                  cable regulation under subparagraph (B).

1                   “(iii) SIGNATURE.—A report required  
 2                   under clause (i) shall be signed by a re-  
 3                   sponsible official of the mercury cell chlor-  
 4                   alkali plant, who shall certify the accuracy  
 5                   of the report.

6                   “(4) DISPOSAL OF MERCURY CAPTURED  
 7                   THROUGH EMISSION CONTROLS.—

8                   “(A) IN GENERAL.—

9                   “(i) CAPTURED OR RECOVERED MER-  
 10                  CURY.—The regulations promulgated by  
 11                  the Administrator under paragraph (1)(A)  
 12                  shall ensure that mercury that is captured  
 13                  or recovered through the use of an emis-  
 14                  sion control or another method is disposed  
 15                  of in a manner that ensures that—

16                       “(I) the hazards from mercury  
 17                       are not transferred from 1 environ-  
 18                       mental medium to another; and

19                       “(II) there is no release of mer-  
 20                       cury into the environment (as the  
 21                       terms ‘release’ and ‘environment’ are  
 22                       defined in section 101 of the Com-  
 23                       prehensive Environmental Response,  
 24                       Compensation, and Liability Act of  
 25                       1980 (42 U.S.C. 9601)).

1                   “(ii)                   MERCURY-CONTAINING  
 2                   WASTES.—The regulations promulgated by  
 3                   the Administrator under paragraph (1)(A)  
 4                   shall ensure that mercury-containing  
 5                   wastes are handled and disposed of in ac-  
 6                   cordance with all applicable Federal and  
 7                   State laws (including regulations).

8                   “(B) RESEARCH PROGRAM.—To promote  
 9                   permanent and cost-effective disposal of mer-  
 10                  cury from mercury cell chlor-alkali plants, the  
 11                  Administrator shall establish a program of long-  
 12                  term research to develop and disseminate infor-  
 13                  mation on methods and techniques such as sep-  
 14                  arating, solidifying, recycling, and encapsulating  
 15                  mercury-containing waste so that mercury does  
 16                  not volatilize, migrate to ground water or sur-  
 17                  face water, or contaminate the soil.

18               “(5) OTHER REQUIREMENTS.—An emission  
 19               standard or other requirement promulgated under  
 20               this subsection does not diminish or replace—

21                   “(A) any requirement of a more stringent  
 22                   emission limitation or other applicable require-  
 23                   ment established under this Act; or

24                   “(B) a standard issued under State law.

1           “(6) PUBLIC REPORTING OF DATA PERTAINING  
2           TO EMISSIONS OF MERCURY.—

3           “(A) IN GENERAL.—The Administrator  
4           shall annually make available to the public,  
5           through 1 or more published reports and 1 or  
6           more forms of electronic media, facility-specific  
7           mercury emission data for each mercury cell  
8           chlor-alkali plant.

9           “(B) SOURCE OF DATA.—The emission  
10          data shall be taken from the monitoring and  
11          analysis reports submitted under paragraph  
12          (3)(C).”.

13 **SEC. 7. MERCURY EMISSION STANDARDS FOR PORTLAND**  
14 **CEMENT PLANTS.**

15          Section 112 of the Clean Air Act (as amended by sec-  
16          tion 6) is amended by inserting after subsection (v) the  
17          following:

18          “(w) MERCURY EMISSION STANDARDS FOR PORT-  
19          LAND CEMENT PLANTS.—

20               “(1) IN GENERAL.—

21               “(A) REGULATIONS.—Not later than 180  
22               days after the date of enactment of this sub-  
23               paragraph, the Administrator shall promulgate  
24               regulations—

“(i) to establish standards for the control of direct dust emission of mercury and mercury compounds (collectively referred to in this subsection as ‘mercury’) from crushers, mills, dryers, kilns (excluding emission from such burning of hazardous waste-containing fuel in a cement kiln as is regulated under section 3004(q) of the Solid Waste Disposal Act (42 U.S.C. 6924(q)), and clinker coolers at existing and new Portland cement plants; and

“(ii) to establish standards for the control of fugitive dust emission of mercury from storage, transport, charging, and discharging operations at existing and new Portland cement plants.

“(B) PERMIT REQUIREMENT.—Not later than 2 years after the date of enactment of this subparagraph, each Portland cement plant shall have an enforceable permit issued under title V that complies with this subsection.

“(C) PROCEDURES AND SCHEDULES FOR COMPLIANCE WITH STANDARDS.—Each Portland cement plant shall achieve compliance with

1 the mercury emission standards established  
2 under subparagraph (A) in accordance with the  
3 procedures and schedules established under  
4 subsection (i).

5 “(2) STANDARDS AND METHODS.—

6 “(A) MINIMUM REQUIRED EMISSION RE-  
7 Duction.—The emission standards established  
8 under paragraph (1)(A) shall require that each  
9 Portland cement plant reduce its annual pound-  
10 age of direct and fugitive mercury emitted  
11 below its mercury emission baseline, as deter-  
12 mined by the Administrator, by not less than  
13 95 percent.

14 “(B) CONTROL METHODS.—For the pur-  
15 pose of achieving compliance with the emission  
16 standards established under paragraph (1)(A),  
17 the Administrator shall authorize methods of  
18 control of mercury emissions, including meas-  
19 ures that—

20 “(i) reduce the volume of, or eliminate  
21 emissions of, mercury through a process  
22 change, substitution of material, or other  
23 method;

24 “(ii) enclose systems, processes, or  
25 storage to eliminate mercury emissions;

1 “(iii) collect, capture, or treat mer-  
 2 cury emissions when released from a proc-  
 3 ess, stack, storage, or fugitive emission  
 4 point;

5 “(iv) consist of design, equipment,  
 6 manufacturing process, work practice, or  
 7 operational standards (including require-  
 8 ments for operator training or certifi-  
 9 cation) in accordance with subsection (h);  
 10 or

11 “(v) consist of a combination of the  
 12 measures described in clauses (i) through  
 13 (iv).

14 “(3) PERMIT REQUIREMENTS AND CONDI-  
 15 TIONS.—

16 “(A) IN GENERAL.—Each permit issued in  
 17 accordance with paragraph (1)(B) shall in-  
 18 clude—

19 “(i) enforceable mercury emission  
 20 standards;

21 “(ii) a schedule of compliance;

22 “(iii) a requirement that the permittee  
 23 submit to the permitting authority, not less  
 24 often than every 90 days, the results of  
 25 any required monitoring; and

“(iv) such other conditions as the Administrator determines are necessary to ensure compliance with this subsection and each applicable implementation plan under section 110.

“(B) MONITORING AND ANALYSIS.—

“(i) PROCEDURES AND METHODS.—  
The regulations promulgated by the Administrator under paragraph (1)(A) shall prescribe procedures and methods for—

“(I) monitoring and analysis for mercury; and

“(II) determining compliance with this subsection.

“(ii) INFORMATION.—Application of the procedures and methods shall result in reliable and timely information for determining compliance.

“(iii) EFFECT ON OTHER LAW.—  
Nothing in this subsection affects any continuous emission monitoring requirement of title IV or any other provision of this Act.

“(C) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.—

1           “(i) IN GENERAL.—Each permit  
2           issued in accordance with paragraph  
3           (1)(B) shall specify inspection, entry, mon-  
4           itoring, compliance certification, and re-  
5           porting requirements to ensure compliance  
6           with the terms and conditions of the per-  
7           mit.

8           “(ii) CONFORMITY WITH OTHER REG-  
9           ULATIONS.—The monitoring and reporting  
10          requirements shall conform to each appli-  
11          cable regulation under subparagraph (B).

12          “(iii) SIGNATURE.—A report required  
13          under clause (i) shall be signed by a re-  
14          sponsible official of the Portland cement  
15          plant, who shall certify the accuracy of the  
16          report.

17          “(4) DISPOSAL OF MERCURY CAPTURED  
18          THROUGH EMISSION CONTROLS.—

19               “(A) IN GENERAL.—

20               “(i) CAPTURED OR RECOVERED MER-  
21               CURY.—The regulations promulgated by  
22               the Administrator under paragraph (1)(A)  
23               shall ensure that mercury that is captured  
24               or recovered through the use of an emis-

sion control or another method is disposed of in a manner that ensures that—

“(I) the hazards from mercury are not transferred from 1 environmental medium to another; and

“(II) there is no release of mercury into the environment (as the terms ‘release’ and ‘environment’ are defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

“(ii) MERCURY-CONTAINING WASTES.—The regulations promulgated by the Administrator under paragraph (1)(A) shall ensure that mercury-containing wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

“(B) RESEARCH PROGRAM.—To promote permanent and cost-effective disposal of mercury from Portland cement plants, the Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques such as separating,

1           solidifying, recycling, and encapsulating mer-  
 2           cury-containing waste so that mercury does not  
 3           volatilize, migrate to ground water or surface  
 4           water, or contaminate the soil.

5           “(5) OTHER REQUIREMENTS.—An emission  
 6           standard or other requirement promulgated under  
 7           this subsection does not diminish or replace—

8                   “(A) any requirement of a more stringent  
 9                   emission limitation or other applicable require-  
 10                  ment established under this Act; or

11                  “(B) a standard issued under State law.

12           “(6) PUBLIC REPORTING OF DATA PERTAINING  
 13           TO EMISSIONS OF MERCURY.—

14                   “(A) IN GENERAL.—The Administrator  
 15                   shall annually make available to the public,  
 16                   through 1 or more published reports and 1 or  
 17                   more forms of electronic media, facility-specific  
 18                   mercury emission data for each Portland ce-  
 19                   ment plant.

20                   “(B) SOURCE OF DATA.—The emission  
 21                   data shall be taken from the monitoring and  
 22                   analysis reports submitted under paragraph  
 23                   (3)(C).”.

1 **SEC. 8. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**  
2 **SION STANDARDS FOR MEDICAL WASTE IN-**  
3 **CINERATORS.**

4 (a) IN GENERAL.—Not later than 2 years after the  
5 date of enactment of this Act, the Administrator of the  
6 Environmental Protection Agency shall submit to Con-  
7 gress a report describing the extent to which the annual  
8 poundage of mercury and mercury compounds emitted by  
9 each medical waste incinerator in the United States has  
10 been reduced below the baseline for the medical waste in-  
11 cinerator determined under subsection (b).

12 (b) BASELINE.—

13 (1) USE OF ACTUAL DATA.—As a baseline for  
14 measuring emission reductions, the report shall use  
15 the mercury and mercury compound emission data  
16 that were submitted or developed during the process  
17 of permitting of the medical waste incinerator under  
18 the Clean Air Act (42 U.S.C. 7401 et seq.).

19 (2) LACK OF ACTUAL DATA.—If the data de-  
20 scribed in paragraph (1) are not available, the Ad-  
21 ministrator shall develop an estimate of baseline  
22 mercury emissions based on—

23 (A) other sources of data; and

24 (B) the best professional judgment of the  
25 Administrator.

1 **SEC. 9. REPORT ON IMPLEMENTATION OF MERCURY EMIS-**  
2 **SION STANDARDS FOR HAZARDOUS WASTE**  
3 **COMBUSTORS.**

4 (a) IN GENERAL.—Not later than 2 years after the  
5 date of enactment of this Act, the Administrator of the  
6 Environmental Protection Agency shall submit to Con-  
7 gress a report on the extent to which the annual poundage  
8 of mercury and mercury compounds emitted by each haz-  
9 ardous waste combustor in the United States has been re-  
10 duced below the baseline for the hazardous waste com-  
11 bustor determined under subsection (b).

12 (b) BASELINE.—

13 (1) USE OF ACTUAL DATA.—As a baseline for  
14 measuring emission reductions, the report shall use  
15 the mercury and mercury compound emission data  
16 that were submitted or developed during the process  
17 of permitting of the hazardous waste combustor  
18 under the Clean Air Act (42 U.S.C. 7401 et seq.).

19 (2) LACK OF ACTUAL DATA.—If the data de-  
20 scribed in paragraph (1) are not available, the Ad-  
21 ministrator shall develop an estimate of baseline  
22 mercury emissions based on—

23 (A) other sources of data; and

24 (B) the best professional judgment of the  
25 Administrator.

1 **SEC. 10. DEFENSE ACTIVITIES.**

2 (a) REPORT.—

3 (1) IN GENERAL.—Not later than 2 years after  
4 the date of enactment of this Act, the Secretary of  
5 Defense shall submit to Congress a report describing  
6 the use of mercury and mercury compounds by the  
7 Department of Defense.

8 (2) CONTENTS.—In the report, the Secretary of  
9 Defense shall describe—

10 (A) any measures that the Department of  
11 Defense is carrying out to reduce the use and  
12 emissions of mercury and mercury compounds  
13 by the Department; and

14 (B) measures that the Department of De-  
15 fense is carrying out to stabilize or recycle dis-  
16 carded mercury or discarded mercury-con-  
17 taining products.

18 (b) PROHIBITION ON SALE.—Beginning on the date  
19 of enactment of this Act, no mercury or mercury com-  
20 pounds in the stockpile provided for under section 4 of  
21 the Critical and Strategic Materials Stock Piling Act (50  
22 U.S.C. 98c), commonly known as the “National Defense  
23 Stockpile”, may be sold, domestically or internationally,  
24 for commercial or industrial use.

1 **SEC. 11. INTERNATIONAL ACTIVITIES.**

2 (a) STUDY AND REPORT.—Not later than 2 years  
3 after the date of enactment of this Act, the Administrator  
4 of the Environmental Protection Agency, in cooperation  
5 with appropriate representatives of Canada and Mexico,  
6 shall study and submit to Congress a report describing  
7 the sources and extent of mercury emissions in North  
8 America.

9 (b) REVIEW.—Before submitting the report to Con-  
10 gress, the Administrator shall submit the report for—

11 (1) internal and external scientific peer review;  
12 and

13 (2) review by the Science Advisory Board estab-  
14 lished by section 8 of the Environmental Research,  
15 Development, and Demonstration Authorization Act  
16 of 1978 (42 U.S.C. 4365).

17 (c) REQUIRED ELEMENTS.—The report shall in-  
18 clude—

19 (1) a characterization and identification of the  
20 sources of emissions of mercury in North America;

21 (2) a description of the patterns and pathways  
22 taken by mercury pollution through the atmosphere  
23 and surface water; and

24 (3) recommendations for pollution control meas-  
25 ures, options, and strategies that, if implemented in-  
26 dividually or jointly by the United States, Canada,

1 and Mexico, will eliminate or greatly reduce  
2 transboundary atmospheric and surface water mer-  
3 cury pollution in North America.

4 **SEC. 12. MERCURY RESEARCH.**

5 Section 103 of the Clean Air Act (42 U.S.C. 7403)  
6 is amended by adding at the end the following:

7 “(1) MERCURY RESEARCH.—

8 “(1) STUDY OF IMPLEMENTATION OF MEAS-  
9 URES TO CONTROL MERCURY EMISSIONS.—

10 “(A) ESTABLISHMENT OF ADVISORY COM-  
11 MITTEE.—Not later than 3 years after the date  
12 of enactment of this subsection, the Secretary  
13 of Health and Human Services and the Admin-  
14 istrator shall establish an advisory committee to  
15 evaluate and prepare a report describing the  
16 progress made by the Federal Government,  
17 State and local governments, industry, and  
18 other regulated entities to implement and com-  
19 ply with the mercury-related amendments to  
20 this Act made by the Mercury Emission Act of  
21 2005.

22 “(B) MEMBERSHIP.—

23 “(i) IN GENERAL.—The advisory com-  
24 mittee shall consist of at least 15 mem-

1           bers, of whom at least 1 member shall rep-  
2           resent each of the following:

3                   “(I) The Department of Health  
4                   and Human Services.

5                   “(II) The Agency for Toxic Sub-  
6                   stances and Disease Registry.

7                   “(III) The Food and Drug Ad-  
8                   ministration.

9                   “(IV) The Environmental Protec-  
10                  tion Agency.

11                  “(V) The National Academy of  
12                  Sciences.

13                  “(VI) Native American popu-  
14                  lations.

15                  “(VII) State and local govern-  
16                  ments.

17                  “(VIII) Industry.

18                  “(IX) Environmental organiza-  
19                  tions.

20                  “(X) Public health organizations.

21                  “(ii) APPOINTMENT.—The Secretary  
22                  of Health and Human Services and the  
23                  Administrator shall each appoint not fewer  
24                  than 7 members of the advisory committee.

1           “(C) DUTIES.—The advisory committee  
2 shall—

3           “(i) evaluate the adequacy and com-  
4 pleteness of data collected and dissemi-  
5 nated by the Environmental Protection  
6 Agency and each State that measures and  
7 reports on mercury contamination in the  
8 environment;

9           “(ii) make recommendations to the  
10 Secretary of Health and Human Services  
11 and the Administrator concerning—

12           “(I) changes necessary to im-  
13 prove the quality and ensure consist-  
14 ency from State to State of Federal  
15 and State data collection, reporting,  
16 and characterization of baseline envi-  
17 ronmental conditions; and

18           “(II) methods for improving pub-  
19 lic education, particularly among high-  
20 risk populations (such as pregnant  
21 women and their fetuses, women of  
22 childbearing age, children, and indi-  
23 viduals who subsist primarily on fish),  
24 concerning the pathways and effects

1 of mercury contamination and con-  
2 sumption; and

3 “(iii) not later than 4 years after the  
4 date of enactment of this subsection, com-  
5 pile and make available to the public,  
6 through 1 or more published reports and 1  
7 or more forms of electronic media, the  
8 findings, recommendations, and supporting  
9 data (including State-specific data) of the  
10 advisory committee under this subpara-  
11 graph.

12 “(D) COMPENSATION.—

13 “(i) IN GENERAL.—A member of the  
14 advisory committee shall receive no com-  
15 pensation for the service of the member on  
16 the advisory committee.

17 “(ii) TRAVEL EXPENSES.—A member  
18 of the advisory committee shall be allowed  
19 travel expenses, including per diem in lieu  
20 of subsistence, at rates authorized for em-  
21 ployees of agencies under subchapter I of  
22 chapter 57 of title 5, United States Code,  
23 while away from the home or regular place  
24 of business of the member in the perform-

1           ance of services for the advisory com-  
2           mittee.

3           “(E) DURATION OF ADVISORY COM-  
4           MITTEE.—The advisory committee—

5                   “(i) shall terminate not earlier than  
6                   the date on which the Secretary of Health  
7                   and Human Services and the Adminis-  
8                   trator determine that the findings, rec-  
9                   ommendations, and supporting data pre-  
10                  pared by the advisory committee have been  
11                  made available to the public; and

12                   “(ii) may, at the discretion of the Sec-  
13                   retary of Health and Human Services and  
14                   the Administrator, continue in existence  
15                   after that date to continue to carry out the  
16                   duties described in subparagraph (C).

17           “(F) APPLICABILITY OF FEDERAL ADVI-  
18           SORY COMMITTEE ACT.—The Federal Advisory  
19           Committee Act (5 U.S.C. App.) shall not apply  
20           to the advisory committee established under  
21           this paragraph.

22           “(G) FUNDING.—The Secretary of Health  
23           and Human Services and the Administrator  
24           shall each provide 50 percent of the funding  
25           necessary to carry out this paragraph.

1           “(2) REPORT ON MERCURY SEDIMENTATION  
 2           TRENDS.—Not later than 1 year after the date of  
 3           enactment of this subsection, the Administrator shall  
 4           submit to Congress a report that characterizes mer-  
 5           cury and mercury-compound sedimentation trends in  
 6           Lake Champlain, the Chesapeake Bay, the Great  
 7           Lakes, the finger lakes region of upstate New York,  
 8           Tampa Bay, and other water bodies of concern (as  
 9           determined by the Administrator).

10           “(3) EVALUATION OF FISH CONSUMPTION  
 11           ADVISORIES.—

12           “(A) IN GENERAL.—The Administrator  
 13           shall evaluate the adequacy, consistency, com-  
 14           pleteness, and public dissemination of—

15           “(i) data collected by the Environ-  
 16           mental Protection Agency and each State  
 17           concerning mercury contamination of fish;  
 18           and

19           “(ii) advisories to warn the public  
 20           about the consumption of mercury-con-  
 21           taminated fish (referred to in this para-  
 22           graph as ‘fish consumption advisories’).

23           “(B) IMPROVEMENT OF QUALITY AND  
 24           CONSISTENCY.—In conjunction with each State  
 25           or unilaterally, the Administrator shall imple-

1           ment any changes necessary to improve the  
 2           quality and ensure consistency from State to  
 3           State of Federal and State data collection, re-  
 4           porting, characterization of mercury contamina-  
 5           tion, and thresholds concerning mercury con-  
 6           tamination in fish above which fish consump-  
 7           tion advisories will be issued.

8           “(C) REPORTING.—Not later than 2 years  
 9           after the date of enactment of this subsection  
 10          and every 2 years thereafter, the Administrator  
 11          shall prepare and make available to the public,  
 12          through 1 or more published reports and 1 or  
 13          more forms of electronic media, information  
 14          providing detail by State, watershed, water  
 15          body, and river reach of mercury levels in fish  
 16          and any fish consumption advisories that have  
 17          been issued during the preceding 2-year period.

18          “(D) EFFECT ON STATE AUTHORITY.—  
 19          Nothing in this paragraph affects the authority  
 20          of a State to advise residents of the mercury  
 21          content of commercially sold foods and other  
 22          products.

23          “(4) STUDY OF MERCURY STOCKPILES AND RE-  
 24          TIREMENT.—The Administrator shall request the  
 25          National Academy of Sciences to—

1 “(A) conduct a study to—

2 “(i) assess—

3 “(I) the total quantity and dis-  
4 tribution of excess mercury in the  
5 United States in stockpiles, collection  
6 programs, and other sources; and

7 “(II) the potential for the excess  
8 mercury to reenter the global market;

9 “(ii) evaluate whether any methods  
10 may exist or be developed for the collection  
11 and permanent retirement of excess mer-  
12 cury in a manner that ensures that there  
13 is no release of mercury into the environ-  
14 ment;

15 “(iii) recommend research programs  
16 to investigate and develop the methods  
17 evaluated under clause (ii) that the Acad-  
18 emy determines are potentially practicable;

19 “(iv) identify Federal or State policies  
20 that may facilitate or impede the perma-  
21 nent retirement of excess mercury;

22 “(v) evaluate the potential for reduc-  
23 ing the mining of virgin mercury  
24 through—

25 “(I) international agreements;

1 “(II) recycling of mercury; or

2 “(III) the use of existing pri-  
3 vately owned stockpiles of mercury;

4 “(vi) evaluate the potential for reduc-  
5 ing global use of mercury in products and  
6 industrial processes through the promotion  
7 and dissemination of substitute products  
8 and processes that do not use mercury;  
9 and

10 “(vii) make any other recommenda-  
11 tions concerning excess mercury that the  
12 Academy determines to be useful; and

13 “(B) not later than 1 year after the date  
14 of enactment of this subsection, submit to Con-  
15 gress a report describing the results of the  
16 study.

17 “(5) AUTHORIZATION OF APPROPRIATIONS.—

18 “(A) MODERNIZATION AND EXPANSION.—

19 In addition to amounts made available under  
20 any other law, there is authorized to be appro-  
21 priated to the Administrator for equipment and  
22 site modernization and network expansion of  
23 the National Atmospheric Deposition Program  
24 Mercury Deposition Network \$2,000,000, to re-  
25 main available until expended.

1           “(B) OPERATIONAL SUPPORT.—In addi-  
2           tion to amounts made available under any other  
3           law, there are authorized to be appropriated for  
4           operational support of the National Atmos-  
5           pheric Deposition Program Mercury Deposition  
6           Network for each of fiscal years 2006 through  
7           2015—

8                   “(i) \$400,000 to the Environmental  
9                   Protection Agency;

10                  “(ii) \$400,000 to the United States  
11                  Geological Survey;

12                  “(iii) \$100,000 to the National Oce-  
13                  anic and Atmospheric Administration; and

14                  “(iv) \$100,000 to the National Park  
15                  Service.”.

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